

**REMARKS**

Claims 1-25 were previously pending in the application. Applicants respectfully request reconsideration of the instant application in view of the foregoing amendments and the following remarks. By this Amendment/Response, new claims 41-44 have been added and claims 1, 2, 4, 7-10, 12, 14-16, 18 and 20-22 have been amended to provide clarification, better track practical implementations, and/or correct minor typographical informalities. Applicants submit that support for the new and amended claims may be found throughout the originally filed specification, drawings, and claims, and that no new matter has been added by way of this Amendment/Response. Applicants maintain that the original claims are in condition for allowance and explicitly reserve the right to add/pursue the claims as originally filed at a later date and/or in one or more continuation and/or divisional application. Claims 1-25 and 41-44 are currently pending.

**Claim Objections**

Claims 4, 7, 12, 14, 18 and 20 have been objected to as allegedly containing particular informalities. Specifically, the pending rejection alleges that "claims 4, 12 and 18 recite that the cluster location is modifiable however the claims as currently recited do not actually modify the cluster location to account for densely populated area." (April 2, 2009 Office Action, p. 4, § 4). Although Applicants maintain that the claims are clear and positively recite the claim elements, Applicants have amended claims 4, 12 and 18 to provide clarification and/or better track practical implementations. For example, amended dependent claim 4 recites, *inter alia*, "wherein a cluster radius associated with the cluster location is set based on a

population density associated with the cluster location." Accordingly, Applicants submit that the Examiner's objections to these claims have been overcome.

The pending rejection also alleges, "claim 7 recites that the data included in the memory is modifiable however the claims as currently recited do not actually modify the data." Although Applicants respectfully traverse the objection and submit that the recited elements manifest meaningful functional aspects of the claims, Applicants have amended dependent claim 7 to provide clarification and/or better track practical implementations. Amended claim 7 recites, *inter alia*, "wherein data included in the memory admits modification by a system administrator." Accordingly, Applicants submit that the Examiner's objections to the claim have been overcome.

The pending rejection also alleges, "claims 8, 14 and 20 recites that the data/characteristics are normalizable however the claims as currently recited do not actually normalize the data/characteristics." Again, although Applicants respectfully traverse the objection and submit that the claims positively recite elements manifesting meaningful functional aspects of the claims, Applicants have amended claims 8, 14 and 20 to provide clarification and/or better track practical implementations. For example, amended dependent claim 8 recites, *inter alia*, "normalize data associated with the rating input characteristics, wherein normalizing removes extraneous values included within the data." Accordingly, Applicants submit that the Examiner's objections to these claims have been overcome.

### **Claim Rejections - 35 U.S.C. § 103**

Claims 1-3, 5-6, 8-11, 13-17 and 19-40 have been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Kwoh, U.S. Patent Application no. 2004/0199429 (hereinafter, "Kwoh") in view of Schneider et al., U.S. Patent no. 5,832,452; claims 4, 12 and 18

have been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Kwoh in view of Schneider and in further view of Carro, U.S. Patent no. 7,007,228 (hereinafter, "Carro"); and claim 7 has been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Kwoh in view of Schneider and in further view of Young et al., U.S. Patent Application no. 2004/0098287 (hereinafter, "Young"). Although Applicants respectfully traverse these rejections and submit that a *prima facie* showing of obviousness has not been established and that the applied references, taken alone or in combination, do not discuss or render obvious every element of each pending claim, Applicants have amended the claims to provide clarification, better track practical implementations, and/or correct minor typographical informalities.

Amended independent claim 1 recites, *inter alia*,

An apparatus for evaluating travel accommodations,  
comprising:

...

receive input to the processor user selection of a  
desired one or more rating input characteristics associated with the at  
least one of the hotel properties ...;

determine by the processor a hotel marketability  
index score ... being based on the desired one or more rating input  
characteristics associated with one or more of the hotel properties;  
and

...

Applicants submit that at least these elements recited in independent claim 1 are not discussed or rendered obvious by the applied references, taken alone or in combination. The pending rejection alleges, "Kwoh teach[es] ... receiving by the processor a selected one or more characteristics associated with at least one of the hotel properties ... (rating and price index of a cruise ship, cruise ship line, destination, etc.; cluster is the cruise line or the cruising location or a particular cruise ship within a cruise line; Paragraphs 19-22, 33, 41; Figures 5A-5c, Figure 3)" (April 2, 2009 Office Action, p. 5, § 6). Applicants respectfully submit that the "cruise rating" calculated in Kwoh is based on price data and/or expected prices associated with cruises only.

At no time does the system described in Kwoh "receive input to the processor user selection of a

desired one or more rating input characteristics," as recited in independent claim 1, since the inputs to Kwoh's cruise rating determination are fixed and no "user selection of a desired one or more rating input characteristics" for use in determining cruise rating ever takes place. The so-called "selected parameters" shown at 320 in Fig. 3 and described in paragraph 0044 of Kwoh are used for comparison with "deconvolved [price] data ... to ensure accuracy or consistency," and not for determining the cruise rating. Kwoh states, "[i]f the deconvolved price data exceeds a predetermined consistency requirement [based on the selected parameters], it [the price data] is then further used in establishing a cruise rating," and, if not deemed not consistent based on the selected parameters, then "the obtained price is deconvolved again to obtain a more accurate result, box 310, or new price data may need to be obtained, box 300" (Kwoh, paragraph 0044). Applicants also submit that neither Schneider, which describes retrieval and display of hotel information from a database, nor Carro, which describes geographic indexing of web information, nor Young, which describes a rating system for travel service providers based primarily on payment performance of the providers to a travel agency, remedy the deficiencies indicated above with regard to Kwoh. MPEP § 2143.03 prescribes that "[a]ll words in a claim must be considered in judging the patentability of that claim against the prior art." As the applied references, taken alone or in combination, fail to discuss or render obvious at least "receive input to the processor user selection of a desired one or more rating input characteristics associated with the at least one of the hotel properties" and "determine by the processor a hotel marketability index score ... being based on the desired one or more rating input characteristics associated with one or more of the hotel properties," Applicants submit that a *prima facie* showing of obviousness has not been established and respectfully request reconsideration and withdrawal of this basis of rejections. Should the Examiner maintain the rejection, Applicants respectfully request clarification as to how and specifically where the Examiner believes Kwoh's

price-data based cruise rating system allegedly describes "receive input to the processor user selection of a desired one or more rating input characteristics" and "determine by the processor a hotel marketability index score ... being based on the desired one or more rating input characteristics," as recited in independent claim 1.

Although of different scope than the other independent claims, Applicants submit that claim 9 is also patentably distinct from the applied references for at least similar reasons.

For example, amended independent claim 9 recites, *inter alia*,

A processor-implemented method for evaluating travel accommodations, comprising:  
...  
receiving input to the processor user selection of a desired one or more rating input characteristics associated with at least one of the hotel properties ...  
determining by the processor a hotel marketability index score ... being based on the desired one or more rating input characteristics associated with one or more of the hotel properties;  
and  
...

Applicants submit that at least these elements recited in independent claim 9 are not discussed or rendered obvious by the applied references, taken alone or in combination, for at least similar reasons as those discussed above identifying deficiencies in the applied references with regard to independent claim 1. Accordingly, Applicants respectfully request reconsideration and withdrawal of this basis of rejections.

Although of different scope than the other independent claims, Applicants submit that claim 15 is also patentably distinct from the applied references for at least similar reasons.

For example, amended independent claim 15 recites, *inter alia*,

A processor-implemented system for evaluating travel accommodations, comprising:  
...  
means for receiving input to the processor user selection of a desired one or more rating input characteristics associated with at least one of the hotel properties ...

means for determining by the processor a hotel  
marketability index score ... being based on the desired one or more  
rating input characteristics associated with one or more of the hotel  
properties; and  
...

Applicants submit that at least these elements recited in independent claim 15 are not discussed or rendered obvious by the applied references, taken alone or in combination, for at least similar reasons as those discussed above identifying deficiencies in the applied references with regard to independent claim 1. Accordingly, Applicants respectfully request reconsideration and withdrawal of this basis of rejections.

Although of different scope than the other independent claims, Applicants submit that claim 21 is also patentably distinct from the applied references for at least similar reasons. For example, amended independent claim 21 recites, *inter alia*,

A processor-readable medium, comprising:  
...  
receive input to the processor user selection of a  
desired one or more rating input characteristics associated with at  
least one of the hotel properties ...  
determine by the processor a hotel marketability index  
score ... being based on the desired one or more rating input  
characteristics associated with one or more of the hotel properties;  
and  
...

Applicants submit that at least these elements recited in independent claim 21 are not discussed or rendered obvious by the applied references, taken alone or in combination, for at least similar reasons as those discussed above identifying deficiencies in the applied references with regard to independent claim 1. Accordingly, Applicants respectfully request reconsideration and withdrawal of this basis of rejections.

Furthermore, Applicants submit that claims 2-8, 11-14, 17-20, 22-25 and 41-44, which depend directly or indirectly from independent claims 1, 9, 15 and 21, are also not discussed or rendered obvious by the applied references, taken alone or in combination, for at

least similar reasons as those discussed above identifying deficiencies in the applied references with regard to the independent claims. Accordingly, Applicants respectfully request reconsideration and withdrawal of this basis of rejections.

### **CONCLUSION**

Consequently, the reference(s) cited by the office action do not result in the claim elements, there was/is no reason, rationale or motivation (i.e., cited references do not teach, suggest, or result in the claimed invention(s)) for such a combination of references, and the claimed inventions are not admitted to be prior art. Thus, the Applicants respectfully submit that the supporting remarks and claimed inventions, claims 1-25 and 41-44 all: overcome all rejections and/or objections as noted in the office action, are patentable over and discriminated from the cited reference(s), and are in a condition for allowance. Furthermore, Applicants believe that the above remarks, which distinguish the claims over the cited reference(s), pertained only to noted claim element portions. These remarks are believed to be sufficient to overcome the prior art. While many other claim elements were not discussed here or in previous amendments/responses, Applicants assert that all such remaining and not discussed claim elements, all, also are distinguished over the prior art and reserve the opportunity to more particularly remark and distinguish such remaining claim elements at a later time should it become necessary. Further, any remarks that were made in response to an Examiner objection and/or rejection as to any one claim element, and which may have been re-asserted as applying to another Examiner objection and/or rejection as to any other claim element(s), any such re-assertion of remarks is not meant to imply that there is commonality about the structure, functionality, means, operation, and/or scope of any of the claim elements, and no such

commonality is admitted as a consequence of any such re-assertion of remarks. As such, Applicants do not concede that any claim elements have been anticipated and/or rendered obvious by any of the cited reference(s). Accordingly, Applicants respectfully request allowance, and the reconsideration and withdrawal of the rejection(s) and/or objection(s).

If a telephone conference would facilitate prosecution of this application in any way, the Examiner is invited to contact the undersigned at the number provided.



**AUTHORIZATION**

The Commissioner is hereby authorized and requested to charge any additional fees which may be required for consideration of this Amendment to Deposit Account No. 03-1240, Order No. 17200-098. In the event that an additional extension of time is required, or which may be required in addition to that requested in a petition for an extension of time, the Commissioner is requested to grant a petition for that extension of time which is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to Deposit Account No. 03-1240, Order No. 17200-098.

Respectfully submitted,  
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